

02-17-06

2664
JRW

AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P. O. Box 7599
Loveland, Colorado 80537-0599

ATTORNEY DOCKET NO. 10971977-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Glenn R. Engel

Serial No.: 09/320,200

Examiner: B. H. Pham

Filing Date: June 24, 1999

Group Art Unit: 2664

Title: METHOD FOR QUICK IDENTIFICATION OF SPECIAL DATA PACKETS

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria VA 22313-1450

TRANSMITTAL LETTER FOR RESPONSE/AMENDMENT

Sir:

Transmitted herewith is/are the following in the above-identified application:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Response/Amendment | <input type="checkbox"/> Petition to extend time to respond |
| <input type="checkbox"/> New fee as calculated below | <input type="checkbox"/> Supplemental Declaration |
| <input checked="" type="checkbox"/> No additional fee (Address envelope to "Mail Stop Amendments") | |
| <input checked="" type="checkbox"/> Other: Copy of Examiner's Interview Summary | (Fee \$ <u>0</u>) |

CLAIMS AS AMENDED BY OTHER THAN A SMALL ENTITY						
(1) FOR	(2) CLAIMS REMAINING AFTER AMENDMENT	(3) NUMBER EXTRA	(4) HIGHEST NUMBER PREVIOUSLY PAID FOR	(5) PRESENT EXTRA	(6) RATE	(7) ADDITIONAL FEES
TOTAL CLAIMS	8	MINUS	8	= 0	X 50	\$ 0
INDEP. CLAIMS	4	MINUS	4	= 0	X 200	\$ 0
<input type="checkbox"/> FIRST PRESENTATION OF A MULTIPLE DEPENDENT CLAIM					+ 300	\$ 0
EXTENSION FEE	1 ST MONTH 120.00 <input type="checkbox"/>	2 ND MONTH 450.00 <input type="checkbox"/>	3 RD MONTH 1020.00 <input type="checkbox"/>	4 TH MONTH 1590.00 <input type="checkbox"/>		\$ 0
					OTHER FEES	\$ 0
					TOTAL ADDITIONAL FEE FOR THIS AMENDMENT	\$ 0

Charge \$ 0 to Deposit Account 50-1078. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 50-1078 pursuant to 37 CFR 1.2 5. Additionally please charge any fees to Deposit Account 50-1078 under 37 CFR 1.16, 1.17, 1.19, 1.20 and 1.21. A duplicate copy of this transmittal letter is enclosed.

"Express Mail" label no. EV 628782391US

Date of Deposit: February 16, 2006

I hereby certify that this is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

Typed Name: Gail L. Miller

Signature: Gail L. Miller

Respectfully submitted,

Glenn R. Engel

By

Jody C. Bishop
Attorney/Agent for Applicant(s)

Reg. No. 44,034

Date: February 16, 2006

Telephone No. (214) 855-8007

Agilent Technologies, Inc.
Intellectual Property Administration
Legal Dept., M/S DL 429
P.O. Box 7599
Loveland, CO 80537-0599

Docket No.: 10971977-1
(PATENT)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Glenn R. Engel

Application No.: 09/320,200

Confirmation No.: 4283

Filed: June 24, 1999

Art Unit: 2664

For: METHOD FOR QUICK IDENTIFICATION OF
SPECIAL DATA PACKETS

Examiner: B. H. Pham

PETITION FROM REQUIREMENT FOR RESTRICTION
UNDER 37 CFR §1.144

Director for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to 37 C.F.R. § 1.144, Applicant respectfully petitions the Director to reconsider and withdraw the Restriction Requirement raised in the Office Action mailed November 1, 2005 for the above-identified patent application.

Statement of Facts

The present patent application was filed June 24, 1999. On May 6, 2002, a restriction requirement was issued, in substance requiring election between:

- I. claims 1-4 (“error detection code”) and
- II. claims 5-8 (“unique bit sequence”).

However, none of the claims are drawn to either an error detection code or a bit sequence. Therefore, during a telephone conversation between Applicant’s attorney and the Examiner, it was agreed that the restriction requirement was not proper and would be

withdrawn. On June 13, 2002, the PTO mailed a written interview summary to this effect, a copy of which is attached hereto for the Director's convenience.

Thereafter, over 3 years passed with no further response from the PTO. On January 12, 2004 Applicant submitted a status inquiry to the PTO. Applicant submitted a second status inquiry to the PTO on March 23, 2004. Receipt of both inquiries was acknowledged, but Applicant received no response to either inquiry for this case.

Then, on October 3, 2005 (over 3 years from the June 13, 2002 interview summary), the next communication from the PTO was mailed, which was a Notice of Abandonment stating that the application was abandoned for failure to respond to the restriction requirement of May 6, 2002. Of course, such abandonment was inappropriate as Applicant had responded to the restriction requirement and such restriction requirement had been withdrawn. Accordingly, during a telephone call between Applicant's attorney and the Examiner on October 24, 2005, it was agreed that the Notice of Abandonment was inappropriate and would be withdrawn. On October 25, 2005 a written summary of this interview was mailed by Applicant's attorney to the PTO.

Then, on November 1, 2005, the present Restriction Requirement was mailed, which again raises the identical restriction (as between claims 1-4 and 5-8) that was determined to be inappropriate over 3 years ago, as noted in the Examiner's interview summary of June 13, 2002. Applicant traversed the November 1, 2005 Restriction Requirement in a Response submitted December 22, 2005. An Office Action maintaining the Restriction Requirement of November 1, 2005 was mailed January 30, 2006, from which Applicant respectfully submits this petition requesting that such Restriction Requirement be overturned.

Remarks

Applicant respectfully submits that the present restriction requirement that was deemed to be inappropriate over 3 years ago is still inappropriate, and therefore Applicant requests that the restriction be overturned with a directive that the Examiner expeditiously advance this case to an examination of all pending claims 1-8 on their merits.

The November 1, 2005 Restriction Requirement asserts that claims 1-4 are "drawn to an error detection" and claims 5-8 are "drawn to detecting a special data packet." This is

inaccurate. Claims 1-4 are not drawn to an error detection. Rather, claims 1-2 are directed to “a method for tagging a special data packet.” Similarly, claims 5-6 are directed to “a method for tagging a special data packet.” Claims 3-4 are directed to “a method for detecting a special data packet.” Similarly, claims 7-8 are directed to “a method for detecting a special data packet.”

Thus, Applicant submits that the grouping of the claims presented in the Restriction Requirement is improper. There are no claims drawn to “an error detection” (Group I proposed by the Restriction Requirement). The Restriction Requirement also inaccurately asserts that claims 5-8 are “drawn to detecting a special data packet.” While four claims are drawn to a method for detecting a special data packet, the claims directed to such a method of detecting a special data packet are claims 3-4 and 7-8, rather than claims 5-8 (as asserted by the Restriction Requirement).

Further, the eight claims presented for examination all fit together to make up different embodiments of a single inventive concept. The Examiner has failed to establish any basis for contending that these claims are directed to inventions that cannot be used together. To the contrary, their modes of operation, functions and effects are related. For instance, claims 1-2 and 5-6 are directed to tagging a special data packet, and claims 3-4 and 7-8 are directed to detecting a special data packet (e.g., which may have been tagged as special via the methods of claims 1-2 and 5-6).

Further still, the Examiner has failed to establish that a SERIOUS burden would arise if the restriction is not required. Indeed, the January 30, 2006 Office Action indicates that claims 1-4 have been examined and are indicated as allowed. As described above, claims 1-2 are directed to “a method for tagging a special data packet,” and claims 3-4 are directed to “a method for detecting a special data packet.” Similar to the subject matter of claims 1-2, claims 5-6 are also directed to “a method for tagging a special data packet.” And, similar to the subject matter of claims 3-4, claims 7-8 are also directed to “a method for detecting a special data packet.” Thus, no SERIOUS burden would arise in examining claims 5-8, as the analogous subject matter of claims 1-4 has already been examined and indicated as allowed.

Accordingly, just as was determined over 3 years ago (see the Examiner’s interview summary of June 13, 2002), restriction between claims 1-4 and 5-8 is improper.

Conclusion

In view of the above, Applicant respectfully traverses the November 1, 2005 Restriction Requirement as being improper. Therefore, Applicant respectfully petitions the Director to reconsider and withdraw the outstanding restriction requirement for the reasons discussed above.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-1078, under Order No. 10971977-1 from which the undersigned is authorized to draw.

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, Label No. EV 628782391US in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313.

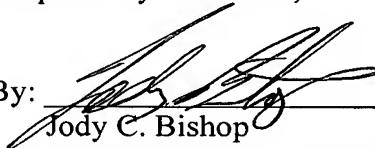
Date of Deposit: February 16, 2006

Typed Name: Gail L. Miller

Signature: Gail L. Miller

Respectfully submitted,

By:


Jody C. Bishop
Attorney/Agent for Applicant(s)
Reg. No. 44,034

Date: February 16, 2006

Telephone No. (214) 855-8007



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APPLICATION NO.	FILING DATE	IPA	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/320,200	06/24/1999		GLENN R. ENGEL	10971977-1	4283

7590 06/13/2002

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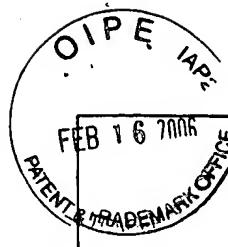
EXAMINER
PHAM, BRENDA H

ART UNIT	PAPER NUMBER
2664	

DATE MAILED: 06/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

(A)



FEB 16 2002

PATENT & TRADEMARK OFFICE

Interview Summary

RJM

Application No. 09/320,200	Applicant(s) ENGEL et al
Examiner Brenda Pham	Art Unit 2664

All participants (applicant, applicant's representative, PTO personnel):

(1) Brenda Pham

(3) _____

(2) Mr. Douglas Barker

(4) _____

Date of Interview Jun 4, 2002Type: a) Telephonic b) Video Conference
c) Personal [copy is given to 1) applicant 2) applicant's representative]Exhibit shown or demonstration conducted: d) Yes e) No. If yes, brief description:Claim(s) discussed: Restriction requirement

Identification of prior art discussed:

Agreement with respect to the claims f) was reached. g) was not reached. h) N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments:

The examiner agrees with the applicant that restriction made on May 6, 2002 is not appropriate, therefore the restriction has been withdrawn.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

i) It is not necessary for applicant to provide a separate record of the substance of the interview (if box is checked).

Unless the paragraph above has been checked, THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required